

REMARKS

Claims 61-63, 76 and 78 have been amended. Claims 77 and 79 have been cancelled. Upon entry of this amendment, claims 61-76, 78 and 80-88 will be pending in the application.

Applicants reserve the right to pursue patent protection for the subject matter cancelled from the pending claims.

I. Claim Objection

Applicants respectfully request reconsideration of the objection to dependent claim 76. The Office asserts on page 2 of the Office action that the version of claim 76 that depends from independent claim 63 is a duplicate of independent claim 61. Applicants respectfully point out that claim 61, which is not limited to an apparatus including a detector for **simultaneously** analyzing vessel effluents of **at least two** of the plurality of vessels as called for in independent 63, defines a distinct invention from that defined in dependent from claim 76 such that claim 76 is not duplicative. Applicants request that the objection to claim 76 be withdrawn.

II. Double Patenting

In response to the rejection of claims 61-88 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,149,882, applicants submit herewith a Terminal Disclaimer in compliance with 37 CFR 1.321(c). U.S. Patent

No. 6,149,882 is assigned to Symyx Technologies, Inc., the assignee of the subject application.

III. Rejection of claims 62, 63, 70, 77 and 79-87 under 35 U.S.C. §102(a)

Applicants note that claims 61, 64-69, 71-76, 78 and 88 have not been rejected on the basis of the prior art and acknowledge the withdrawal of the rejection of claim 88 under 35 U.S.C. §102(a) as anticipated by the disclosure in WO 98/07026 (Windhab et al.).

Applicants respectfully request reconsideration of the rejection of claims 62, 63, 70, 77 and 79-87 under 35 U.S.C. §102(a) as being anticipated by WO 98/07026 (Windhab et al.).

The present application was filed on February 8, 2002 and claims priority from U.S. Application Serial No. 09/607,535, filed June 29, 2000, now U.S. Patent No. 6,869,799, which claims priority from U.S. Application Serial No. 09/093,870, filed June 9, 1998, now U.S. Patent No. 6,149,882. The effective filing date of the present application is June 9, 1998.

WO 98/07026 corresponds to International Application No. PCT/EP97/04369, filed August 12, 1997, and was published February 19, 1998. WO 98/07026 is prior art under 35 U.S.C. §102(a) as of its publication date, February 19, 1998. WO 98/07026 is not available as prior art under 35 U.S.C. §102(e).

U.S. Patent No. 6,576,470 based on U.S. Application Serial No. 09/242,199, is the U.S. national stage application corresponding to WO 98/07026. The effective date under 35 U.S.C. §102(e) of U.S. Patent No. 6,576,470 (which issued directly or indirectly from an international

application filed before November 29, 2000) is the date of compliance with 35 U.S.C. 371(c)(1), (2) and (4) or November 22, 1999 and, therefore, is not prior art against the subject application.

Claim 63

Independent claim 63 has been amended to conform to the scope of subject matter the inventor regards as his invention. The apparatus of claim 63 as amended includes *inter alia*, a plurality of passive flow restrictors, each being in fluid communication with one of the plurality of vessels and adapted such that the resistance to fluid flow is greatest in the flow restrictors and the resistance to fluid flow in each of the flow restrictors is approximately the same so that fluid flow through the vessels is apportioned approximately equally between each of the plurality of vessels. Support for the amendment to claim 63 can be found, for example, in the abstract of the disclosure at page 38, line 8 of the original specification.

* The enclosed Declaration under 37 CFR §1.131 by Shenheng Guan establishes that he invented the subject matter of independent claim 63 as currently amended and claims 70 and 80-87 depending therefrom prior to February 19, 1998, the 35 U.S.C. § 102(a) prior art date of WO 98/07026. In particular, as stated in his Declaration and supported by the accompanying documentation, Shenheng Guan conceived of and reduced to practice in the United States the apparatus of the present invention as defined in independent claim 63 as currently amended and claims 70 and 80-87 depending therefrom prior to at least February 19, 1998. Applicants note that the internal search report
* attached to the enclosed Declaration as Exhibit A contains a figure on the first page showing the parallel flow

geometry of a 48 reactor apparatus in accordance with the claimed invention that is substantially identical to Fig. 1 of the subject application. The date on Exhibit A attached to the enclosed Declaration is prior to February 19, 1998 and has been obliterated. Accordingly, WO 98/07026 is removed as a reference as to these claims and a rejection under 35 U.S.C. § 102(a) of independent claim 63 and claims 70 and 80-87 dependent thereon cannot be properly maintained.

Claim 62

Applicants note that the rejection under 35 U.S.C. § 102(a) based on WO 98/07026 does not extend to dependent claim 78 as previously presented which required that the flow restrictors of the claimed apparatus be capillary tubes. Independent claim 62 has been amended to require that each of the plurality of flow restrictors be capillary tubes in fluid communication with one of the plurality of vessels.

The Declaration under 37 CFR §1.131 by Shenheng Guan submitted herewith establishes that he invented the subject matter of independent claim 62 as currently amended and claims 70 and 80-87 depending therefrom prior to February 19, 1998, the 35 U.S.C. § 102(a) prior art date of WO 98/07026. In particular, as stated in his Declaration and supported by the accompanying documentation, Shenheng Guan conceived of and reduced to practice in the United States the apparatus of the present invention as defined in independent claim 62 as currently amended and claims 70 and 80-87 depending therefrom prior to at least February 19, 1998. Accordingly, WO 98/07026 is removed as a reference as to these claims and a rejection under 35 U.S.C. § 102(a) of independent claim 62 and claims 70 and 80-87 dependent thereon cannot be properly maintained.

Claim 61

The apparatus of independent claim 61 as amended is similar to the apparatus of independent claim 63 except that it does not require a detector capable of simultaneously analyzing vessel effluents of at least two of the plurality of vessels and requires that the each of the plurality of passive flow restrictors be arranged upstream of one of the plurality of such that each of the plurality of flow restrictors provides fluid communication between one of the plurality of vessels and the entrance control volume.

Applicants note that independent claim 61 has not been rejected as anticipated by WO 98/07026. Nevertheless, in light of the accompanying Declaration under 37 CFR §1.131 by Shenheng Guan, Applicants submit that WO 98/07026 is not prior art against the invention as defined in independent claim 61. Accordingly, WO 98/07026 is also removed as a prior art reference as against independent claim 61 and claims dependent therefrom.

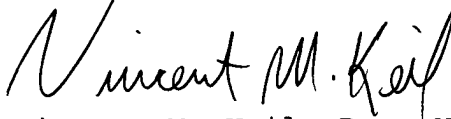
CONCLUSION

Favorable reconsideration and allowance of all pending claims are respectfully solicited. The Examiner is invited to contact the undersigned attorney by telephone should any issues remain unresolved.

* Applicants request an extension of time to and including January 13, 2006 for filing a response to the above-mentioned Office action. A check in payment of the applicable extension fee is enclosed.

The Commissioner is requested to charge any fee deficiency of overpayment in connection with this amendment to Deposit Account 19-1345.

Respectfully submitted,



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*Enclosures

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